

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2617 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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S G PARMAR

Versus

GUJARAT SECONDARY EDUCATION BOARD (EXAMINATION WING)

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Appearance:

MR PB MAJMUDAR for Petitioners

MR MC BHATT for Respondent No. 1

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 22/10/96

ORAL JUDGEMENT

The petitioners are the persons who were appointed as temporary clerks by respondent No.1 Board [ hereinafter referred to as "the Board"], a statutory body established under the Gujarat Secondary Education Act, 1972. The Board controls and regulates the secondary education and also conducts school ending examinations. It appears that during the period of examinations, with a

view to cope up with the additional work of scrutiny of applications and other pre-examination and post examination work, certain staff is appointed on temporary basis. The petitioners are such persons who were appointed during the period of examinations who are known as seasonal clerks. The orders of appointment issued in favour of the petitioners herein are annexed to the petition.

2. Learned advocate Mr. Majmudar has submitted that all the petitioners were sponsored by the Employment Exchange Office and were appointed after following due procedure. Thus, it is the claim of the petitioners that the petitioners having been appointed regularly after due procedure, they should be treated as permanent employees of the Board and be given all the benefits admissible to the permanent employees of the Board.

3. The claim made by the petitioners has been contested by the Board by filing its counter affidavit in which it is stated that the Board has employed regular staff for performing its regular functions. However, during the examinations, burden of clerical work increases on account of pre-examination and post examination work. To man such additional works, the Board makes temporary appointments of clerk which is known as seasonal employment. The petitioners have accordingly been appointed as seasonal clerks and for want of sufficient work load throughout the year, said petitioners cannot be employed beyond the term of their appointment.

4. It is well settled proposition of law that the persons appointed on temporary basis cannot claim permanent employment. However, in view of the fact that the petitioners have continued as seasonal clerks from year to year, it should be expedient that their cases be considered for appointment on permanent posts in accordance with law. In the circumstances, ends of justice shall be met with if the following directions are issued :

5. The Board shall invite the applications from the seasonal clerks as and when it needs to make permanent employment in the Board. For this purpose, requirement of names being sponsored from the Employment Exchange shall be dispensed with.

6. Any of such applicants, if has crossed upper age limit for appointment on regular establishment, shall be given benefit of relaxation in upper age limit provided

that such applicant was within the age limit on the date of his first appointment and was otherwise eligible for such employment. The Board shall also consider the question of seniority and continuity in service in respect of those those seasonal clerks who are found suitable for appointment on regular establishment and are appointed on regular establishment in accordance with law for the purpose of retirement/terminal benefits. Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

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